

CERTIFICATE OF NEED COMMISSION BYLAWS

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ARTICLE I - PREAMBLE

The Michigan Certificate of Need Commission (CON Commission) is created in the Michigan Department of Community Health (the department) and is established pursuant to the Michigan Public Health Code, 1978 P.A. 368, MCL 333.1101, et seq., MSA 14.15 (1101) et seq., as amended by Public Acts 308, 331 and 332 of 1988, and 396 of 1993, which augmented the Public Health Code by the addition of Part 222 (the Code) and amended by Public Act 619 of 2002. The Bylaws developed by the CON Commission shall remain in effect until otherwise amended as provided for in Article X.

ARTICLE II - DEFINITIONS

The terms used in these bylaws have the meaning ascribed to them in Parts 201 and 222 of the Code.

ARTICLE III - GENERAL PURPOSE

The CON Commission shall exercise its duties to promote all of the following:

- A. The availability and accessibility of quality health services at reasonable cost and with reasonable geographic proximity for all people in the state;
- B. Appropriate differential consideration of the health care needs of residents in rural counties in ways that do not compromise the quality and affordability of health care services for those residents; and
- C. Consideration of the impact of a proposed restriction on the acquisition of or availability of covered clinical services on the quality, accessibility, and cost of health services in this state.

ARTICLE IV - STANDARD ADVISORY COMMITTEES

If the Commission determines it necessary, it may appoint standard advisory committees to assist in the development of proposed CON review standards in accordance with section 333.22215(1)(I).

- A. The duties of a standard advisory committee shall be developed by the Commission at a regular or special meeting. A standard advisory committee's duties shall be adopted by a majority of the Commission.
- B. The duties of a standard advisory committee shall be set forth in a written charge enumerating the duties delegated to it by the Commission.
- C. The language of the written charge may be adopted by vote of the commission or the Commission may delegate the Chairperson to write the charge, consistent with the action of the Commission.

- D. The members of a standard advisory committee shall be appointed by the chairperson consistent with statutory requirements and the recommendations of the Commission.
- E. The appointment of a standard advisory committee shall be effective as of the date of the first meeting of the committee.
- F. The chairperson of a standard advisory committee shall be appointed by the chairperson of the Commission.
- G. A member of a standard advisory committee shall be subject to the provisions against conflicts of interest consistent with Article IX of these bylaws.
- H. All meetings of standard advisory committees shall comply with the provisions of the Michigan Open Meeting Act, being Public Act 267 of 1976, as amended.

ARTICLE V - MEMBERSHIP OF THE CON COMMISSION

A. Size and Composition

The CON Commission shall consist of 11 members appointed by the Governor with the advice and consent of the Senate pursuant to Section 22211 of the Code.

1. Two individuals representing hospitals.
2. One individual representing physicians licensed under part 175 to engage in the practice of medicine.
3. One individual representing physicians licensed under part 175 to engage in the practice of osteopathic medicine and surgery.
4. One individual who is a physician licensed under part 170 or 175 representing a school of medicine or osteopathic medicine.
5. One individual representing nursing homes.
6. One individual representing nurses.
7. One individual representing a company that is self-insured for health coverage.
8. One individual representing a company that is not self-insured for health coverage.

9. One individual representing a nonprofit health care corporation operating pursuant to the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1703.

10. One individual representing organized labor unions in this state.

B. Term of Office

1. Newly appointed Commissioners take office upon appointment of the Governor. Unless rejected by the Senate, Commissioners then serve until their term of office expires and their successor takes office or their resignation is accepted by the Governor.
2. The members of the CON Commission, with the exception of initial members, shall serve for a term of three years or until a successor is appointed.

C. Quorum, Voting Procedures, and Proxy Votes

1. A majority of the CON Commission members appointed and serving shall constitute a quorum. Final action by the CON Commission shall be only by affirmative vote of a majority of CON Commission members appointed and serving.
2. Actions not resulting in final action (including recommending action by the full commission or completing other planning tasks) may be made by a majority of those in attendance.
3. A CON Commission member shall not vote by proxy. A proxy of a CON Commission member shall not be seated, nor shall they vote, offer motions or second motions.

ARTICLE VI - MEETINGS OF THE CON COMMISSION

A. Compliance With Open Meetings Act

The CON Commission shall adhere to the provisions of the Michigan Open Meetings Act, being Public Act 267 of 1976, as amended.

B. Governance under Robert's Rules of Order Revised

The Commission's procedural activities shall be governed by Robert's Rules of Order Revised, in so far as they are consistent with state law and these bylaws.

C. Notice of Meetings

The Department shall make available the times and places of the meetings of the

CON Commission. The Department shall also keep minutes of such meetings and a record of the actions of the CON Commission.

D. Regular and Special Meetings

1. The CON Commission shall hold regular meetings quarterly at places and on dates fixed by the CON Commission announced in September, preceding each calendar year.
2. Special meetings may be called by the chairperson of the CON Commission, by not less than three CON Commission members, or by the Department.
3. A regular or special meeting of the CON Commission may be recessed and reconvened consistent with the provisions of the Michigan Open Meetings Act, being Public Act 267 of 1976, as amended.

E. Meeting Attendance

1. Members of the CON Commission are expected to attend all regular and special meetings except on those occasions where good cause exists.
2. When a member of the CON Commission is aware that he or she will be unable to attend a regular or special meeting, every effort should be made to give advance notice to the Department, which shall notify the chairperson or vice-chairperson of the CON Commission.
3. The chairperson of the CON Commission shall determine whether a good cause exists for the absence of a member from a regular or special meeting of the CON Commission. When the attendance of the chairperson is under question, the responsibility for determining good cause falls to the vice-chairperson of the CON Commission.
4. The Governor may remove a CON Commission member from office for failure to attend 3 consecutive meetings in a 1-year period. The chairperson or vice-chairperson of the CON Commission shall promptly inform the Governor's office of such situations, and shall indicate as to whether good cause existed for such absences.

F. Teleconferencing

Teleconferencing shall be allowed in accordance with the Open Meetings Act (Public Act 267 of 1976, as amended). Upon approval of the Chairperson, CON Commission members may appear at a meeting via electronic device, including speaker phone or interactive television, provided that a quorum is present at the meeting site and all individuals attending the meeting can hear, and can be heard by, the Commissioner(s) attending via electronic device.

G. Agenda and Background Materials

1. In consultation with the Department and other Commission members, the Chairperson shall determine a tentative agenda for each meeting.
2. No later than 7 days before each meeting, the tentative agenda shall be placed on the appropriate section of the Department's Web site. No later than 5 days prior to each meeting the text of any proposed or final actions and relevant background materials shall be delivered to each Commissioner (using overnight delivery or Email, as necessary) and shall be posted on the appropriate section of the Department's Web site.
3. Urgent action items, proposed or final, meeting the statutory requirements, may be added to the agenda, on the unanimous approval by the Commission at the start of a meeting.

ARTICLE VII - OFFICERS AND PROCEDURES FOR ELECTING OFFICERS

A. Election of Chairperson and Vice-Chairperson

At its first meeting and annually thereafter, the CON Commission shall elect a chairperson and vice-chairperson for a 1-year term not to exceed three consecutive terms. The chairperson and vice-chairperson shall be of separate major parties.

B. Procedures for Selecting Officers

1. Nominations for officers may be made by any CON Commission member appointed and serving and in attendance at the meeting where the selection of officers is to occur.
2. Election of officers shall be determined by an affirmative vote of a majority of CON Commission members appointed and serving.

C. Responsibilities of Officers

1. The chairperson or, in his or her absence, the vice- chairperson shall preside over the CON Commission at all its regular and special meetings. In the event that neither the chairperson nor vice-chairperson is able to preside over a meeting or a portion thereof, the remaining members of the CON Commission shall select a temporary presiding officer.
2. The duties designated to the chairperson in the Public Health Code and these bylaws, in the absence of the chairperson shall be performed by the vice-chairperson or the temporary presiding officer.

D. Filling Vacancies in Officers

1. If the office of chairperson becomes vacant for any reason, the vice-chairperson shall vacate their position and become chairperson of the CON Commission, serving the remaining months of the chairperson's one-year term.
2. If the office of vice-chairperson becomes vacant for any reason, the CON Commission shall elect a new vice-chairperson by an affirmative vote of a majority of those members appointed and serving, and that person shall serve the remaining months of the vice-chairperson's term.
3. If the offices of chairperson and vice- chairperson become vacant simultaneously, the CON Commission shall conduct a special election to fill those positions. New officers shall be elected by an affirmative vote of a majority of those members appointed and serving and they shall serve the remaining months of the chairperson's and vice-chairperson's term.

ARTICLE VIII - PARLIAMENTARY PROCEDURE AND LEGAL COUNSEL

- A. The Attorney General of the State of Michigan, or his or her duly designated Assistant Attorney General, shall serve as parliamentarian for the CON Commission. The duties of the parliamentarian shall be to advise the presiding officer with respect to any matters pertaining to parliamentary procedure.
- B. Any question arising concerning procedure at a meeting of the CON Commission shall be resolved by the presiding officer in accordance with the laws of the State, these bylaws, and Robert's Rules of Order Revised.
- C. The Attorney General of the State of Michigan, or his or her duly designated Assistant Attorney General, shall serve as legal counsel to the CON Commission.

ARTICLE IX - STANDARDS OF CONDUCT BY CON COMMISSION MEMBERS AND CONFLICT OF INTEREST PROVISIONS

- A. CON Commission members are subject to the provisions of:
 1. 1968 PA 317, MCL 15.321 to 15.330 (contracts of public servants with public entities);
 2. 1973 PA 196, MCL 15.341 to 15.348 (code of ethics for public officers and employees);
 3. 1978 PA 472, MCL 4.411 to 4.431, (lobbyists and lobbying regulation);

B. Definition - Conflict of Interest

1. Under the State Ethics Act, 1973 PA 196, MCL 15.341, *et seq*, and in accordance with the Advisory Opinion of the State Board of Ethics of November 5, 2004, a conflict of interest for CON Commission members shall exist when the individual member has a financial or personal interest in a matter under consideration by the CON Commission. The personal interest of a CON Commission member includes the interest of the member's employer, even though the member may not receive monetary or pecuniary remuneration as a result of an adopted CON review standard.
2. CON Commission members shall not be in violation of the State Ethics Act, *supra*, if the member abstains from deliberating and voting upon review standards in which the member's personal interest is involved.
3. CON Commission members may deliberate and vote on standards of general applicability; that is, those standards that do not exclusively benefit certain health care facilities or providers who employ the CON Commission member, even if the standard of general applicability would benefit the member's employer or those for whom the member's employer does work.

C. Procedures - Conflict of Interest

1. A CON Commission member shall disclose that he or she has a potential conflict of interest, after the start of a meeting, at the commencement of consideration of a substantive matter before the CON Commission, or, where consideration has already commenced, at the point where a conflict or potential conflict of interest becomes apparent to the member.
2. After a meeting is called to order and the agenda reviewed, the chairperson shall inquire whether any Commission member has a conflict or potential conflict of interest with regard to any matters on the agenda.
3. Prior to a vote on a substantive matter before the CON Commission, the presiding officer shall inquire of the membership as to the existence of a conflict of interest.
4. A conflict of interest shall not affect the existence of a quorum for purposes of a vote.
5. Where a Commission member has not discerned that she/he may have a conflict of interest and must voluntarily abstain from discussion and vote, any other Commission member may raise a concern as to whether another member has a conflict of interest on a substantive matter. If a second member joins in the concern, there shall be discussion and a vote on whether the member has a conflict of interest prior to continuing discussion or taking any action on the

substantive matter under consideration. The question of conflict of interest shall be settled by an affirmative vote of a majority of those CON Commission members appointed and serving, excluding the member or members in question.

6. The minutes of the meeting shall reflect when a conflict of interest had been determined and that an abstention from deliberation and voting had occurred.

ARTICLE X - AMENDMENTS OF BYLAWS

- A. Any amendments to these bylaws shall be proposed by the CON Commission or presented in writing to the CON Commission by the Department at least 30 days in advance of the meeting where final action is scheduled to be taken.
- B. Any amendments to these bylaws shall be deemed to be approved upon an affirmative vote of a majority of the CON Commission members appointed and serving. Amendments to the bylaws shall become effective upon approval or on such later date as is specified within the amendments.